

IN RE: PETITION FOR SPECIAL	*	BEFORE THE
EXCEPTION	*	OFFICE OF
(1630 E. Joppa Road)	*	ADMINISTRATIVE HEARINGS
9 th Election District	*	FOR BALTIMORE COUNTY
5 th Council District	*	
GRS Properties, LLC	*	
<i>Legal Owner</i>	*	
Green Clean Auto Wash	*	
Contract Purchaser/Lessee	*	
Petitioners	*	Case No: 2021-0199-X

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as Petition for Special Exception filed for the property located at 1630 E. Joppa Rd., Loch Raven (the “Property”). The Petition was filed on behalf of GRS Properties, LLC, legal owner, and Green Clean Auto Wash, lessee (“Petitioners”). The Special Exception Petition seeks relief to have a car wash in a B.M and BR zone pursuant to Baltimore County Zoning Regulations (“BCZR”), §233.3 and §236.2.

The Petition was properly advertised and posted. Due to the ongoing COVID-19 restrictions a public WebEx hearing was conducted virtually in lieu of an in-person hearing. Craig Van Bremen, Vice President of Development and Acquisition for Green Clean appeared in support of the Petition along with Matthew Bishop, R.L.A with Kimley Horn, who prepared and sealed a site plan (the “Site Plan”). (Pet. Ex. 1). Timothy M. Kotroco. Esq. represented the Petitioners. There were no Protestants or interested persons in attendance.

Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and Department of Environmental Protection and Sustainability (“DEPS”) which agencies did not oppose the requested relief.

The Property is 0.96 acres +/- (41,995 sf) and is zoned Business Major, Business-Roadside (BM, BR). (Pet. Ex. 8). It is improved with a vacant building previously used as a restaurant/bar. Other than the restaurant, aerial photographs reveal that the entire Property is paved as a parking lot with a wooden fence surrounding it. (Pet. Exs. 4A-4E). The Property fronts on a busy commercial section of Joppa Rd. adjacent to an ABC Equipment Rental business, a Days Inn and a vacant Subway restaurant. (Pet. Exs. 3A, 3B). Located to the east behind the Property is the Injured Workers Insurance Fund (“IWIF”). (Pet. Exs. 4C, 4D). Across Joppa Rd. to the west side of Joppa Rd. is a used car business and fast food restaurants. (Pet. Exs. 3A, 3B).

Petitioners are proposing to raze the vacant restaurant and to construct a car wash as shown on the Site Plan and in a colored rendering of the proposed Property. (Pet. Exs. 1, 2). Green Clean Car Wash is based in Northern Virginia and recently had a car wash approved on Liberty Rd. in Case No.: 2021-0008-XA. Green Clean operates car washes in several states and is expanding into Maryland. It uses biodegradable soap. The Site Plan proposes a “tunnel” car wash with a single entry and exit point off of Joppa Rd. A 3D rendering of the car wash was provided. (Pet. Exs. 6A-6D).

Turning into the Property from E. Joppa Rd., a customer will follow the directional arrows to proceed through the car wash which takes approximately 3 minutes to complete. The colored rendering shows 20 stacking spaces before entering the car wash. (Pet. Ex. 2). Upon completion, a car may exit onto Joppa Rd., or park in one of spaces to use the vacuum equipment. A storm water management device (filterra) will be added. (Pet. Ex. 1). Landscaping will surround the Property as shown on the Schematic Landscape Plan and colored rendering. (Pet. Ex. 5). No variances are needed for the proposed use.

The Property is located within the Baynesville Commercial Revitalization District and within a Design Review Panel Area (“DRP”). DRP met on March 10, 2021 and recommended approval to the DOP and to Permits, Approvals and Inspections (“PAI”) with conditions. On April 14, 2021, a revised site plan was submitted to DOP for review. DOP found that the revised site plan addressed the DRP conditions and as a result, PAI accepted and approved the DRP recommendation. (Pet. Ex. 7). The County requested that the Petitioners permit access to the Days Inn by creating an easement on the east side of the Property which is marked by “Future Access by Others.” (Pet. Ex. 1).

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Based on the record evidence in this case, I find that the Special Exception request to use this Property as a full service car wash should be granted. Specifically, I find that the proposed uses will not have any greater impacts at this location than those inherently associated with the special exception use, is consistent with the BM, BR zone, and the relief requested satisfies the requirements of BCZR §502.1. Specifically, I am satisfied that the evidence confirmed that the proposed use will not be detrimental to the health, safety or general welfare of the locality involved. Indeed, improvement and renovation of the Property, including the removal of a vacant building and impervious surface, with an eco-friendly business, will promote health, safety and general

welfare. This use will not create congestion onto Joppa Rd. or overcrowd the land as more than the required number of stacking spaces are provided along with a 3 minute car wash which will ensure that vehicles will move through the Property. I also find that this particular use will not create a potential hazard from fire, panic or other danger, will not interfere with light or air, or interfere with public improvements. In regard to impermeable surface, the existing parking lot will be removed and some areas repaved but with landscaping which will support the BCZR vegetative retention provisions. Finally, there are no environmental resources on the Property as verified by the lack of comment from DEPS.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this **2nd** day of **November, 2021** that the Petition for Special Exception pursuant to BCZR, §233.3 and §236.2 to permit a car wash in a BM, BR zone is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.
2. Prior to issuance of permits, Petitioners must obtain approval of a final Landscape Plan from the Baltimore County Landscape Architect.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed _____
MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM/dlm